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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,724	03/16/2004	Lawrence Labedz	40176-10013	1852

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EXAMINER

HOGE, GARY CHAPMAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/801,724	Applicant(s) LABEDZ, LAWRENCE	
	Examiner Gary C. Hoge	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2006.  
 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-31 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-6 and 8-31 is/are rejected:  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-6, 8-15, 18-25 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mabrey et al. (3,707,792) in view of Sharon et al. (5,636,463).

See Fig. 10. Mabrey discloses a display module for an illuminated display device, the display module comprising: a self-supporting, frameless, at least substantially translucent panel **108**; a pair of columns **106**, **107** that support a plurality of display members **100**, which are made of thin film. However, the display members are not supported in divider members, and are thus subject to being damaged. Sharon teaches that it was known in the art to provide a plurality of retention members **58**, secured to a panel **32** in fixed relation and arrayed in first and second opposed vertical columns that are horizontally spaced apart; a plurality of opposed, horizontally disposed divider members **42**, each of the divider members being individually removably held in place by opposed retention members **58**; a retaining structure **44a** on each of the divider members **42** for retaining portions of display members **24** in a predetermined position; a plurality of display members **24** positioned between opposed sets of the retaining structures **44a** of the opposed divider members **42**, the display members having translucent portions **26**. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the columns and thin film display members disclosed by Mabrey with the retention members,

divider members and display members disclosed by Sharon, in order to provide a more rugged construction.

Regarding claims 2, 15 and 25, the retention members **58** disclosed by Sharon are carried by elongated member **36b**.

3. Claims 17 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mabrey et al. (3,707,792) in view of Sharon et al. (5,636,463), as applied to claims 10 and 20, respectively, above, and further in view of Stoddard (6,178,678).

Mabrey discloses the invention substantially as claimed, as set forth above. However, it is not known what type of plastic Mabrey contemplates for the translucent panel **108**. Because it is within the level of ordinary skill of a worker in the art to select from among known materials on the basis of their suitability for the fabrication of a given device, and because Stoddard teaches that polycarbonate would be suitable for the fabrication of a plastic display panel, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the display panel disclosed by Mabrey from polycarbonate, as taught by Stoddard, as a matter of choice in design, based on such factors as cost and availability of the materials to the designer.

4. Claims 1-6, 8-16, 18-26 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharon et al. (5,636,463) in view of Ostrand (3,419,978).

See especially Fig. 4. Sharon discloses a display module for an illuminated display device, the display module comprising: a plurality of retention members **36**, secured to a panel **32** in fixed relation and arrayed in first and second opposed vertical columns that are horizontally spaced apart; a plurality of opposed, horizontally disposed divider members **42**, each of the

divider members being individually removably held in place by opposed retention members **36**; a retaining structure **44a** on each of the divider members **42** for retaining portions of display members **24** in a predetermined position; a plurality of display members **24** positioned between opposed sets of the retaining structures **44a** of the opposed divider members **42**, the display members having translucent portions **26**; the divider members and the display members can be removed and replaced in the opposed retention members without disassembly of any of the retention members from the panel. However, Sharon does not disclose a self-supporting, at least substantially translucent panel between the light source and the display members. Ostrand teaches that it was known to provide a transparent or translucent panel **56** between a light source and a display member (col. 3, lines 6-9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the display module disclosed by Sharon with a transparent or translucent panel, as taught by Ostrand, in order to reinforce the structural rigidity of the frame.

Regarding claims 2, 15 and 25, the retention members **58** disclosed by Sharon are carried by elongated member **36b**.

5. Claims 17 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharon et al. (5,636,463) in view of Ostrand (3,419,978), as applied to claims 10 and 20, respectively, above, and further in view of Stoddard (6,178,678).

Sharon discloses the invention substantially as claimed, as set forth above. However, it is not known what type of plastic Sharon contemplates for the translucent panel **108**. Because it is within the level of ordinary skill of a worker in the art to select from among known materials on the basis of their suitability for the fabrication of a given device, and because Stoddard teaches

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that polycarbonate would be suitable for the fabrication of a plastic display panel, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the display panel disclosed by Sharon from polycarbonate, as taught by Stoddard, as a matter of choice in design, based on such factors as cost and availability of the materials to the designer.

### *Response to Arguments*

6. Applicant's arguments filed April 21, 2006 have been fully considered but they are not persuasive.

Regarding the rejection of claims 1, 10, 20 and 30 based on Sharon and Ostrand, Applicant states that "Sharon teaches the need for a frame and teaches away from a frameless display module." It should be noted that Sharon, Ostrand, and Applicant's invention all include a frame to which the various components are attached. In using the word "frameless," Applicant can only be referring to the components of his invention that are themselves mounted within frame 14. Thus, Applicant's display module is only "frameless" when it has been removed from its frame. The same holds true for the components disclosed by Sharon and Ostrand. Sharon discloses a frame to which retention members 36 are mounted. The device disclosed by Sharon has an open back. Ostrand teaches that it was known in the art to provide a rigid plate "formed of a hard, lightweight, rigid material such as masonite" (col. 2, lines 70-71) in order "to secure the outer frame together," in other words to provide greater rigidity to the frame. The panel disclosed by Ostrand extends from one end of the frame to the other. If such a panel were installed in the frame disclosed by Sharon, it would naturally fall between the frame 32 and retention members 36, and thus retention members 36 would be attached to the panel.

Regarding the rejection of claims 1, 10, 20 and 30 based on Mabrey and Sharon, Applicant contends that there is no motivation to combine Mabrey with Sharon, and that the Examiner's position "is without foundation," because Mabrey's method of holding the display members is functional. However, it cannot be denied that adding horizontal support members, as taught by Sharon, to the device disclosed by Mabrey would result in a stronger, more rigid structure, which is in itself a sufficient motivation to make that modification. When making a rejection under 35 U.S.C. § 103 it is not necessary to find the base reference defective in some way, nor is it necessary to find a secondary reference that suggests a modification that is either necessary or such a vast improvement to the base reference that a person of ordinary skill in the art would be virtually compelled to make the modification. It is enough if there is some teaching that would make the modification obvious to the person of ordinary skill in the art, whether that person would actually decide to make the modification or not.

### *Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

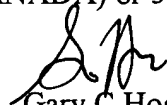
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gary C Hoge  
Primary Examiner  
Art Unit 3611

gch